

Chapter 10

ANIMALS*

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ARTICLE I. IN GENERAL

Sec. 10.100. State code adopted.

All of the provisions of Wis. Stats. ch. 172, as amended, are hereby incorporated by reference into this chapter with the same force and effect as if fully set forth in this chapter.

(Code 1982, § 6.12(2))

Sec. 10.101. Disturbance prohibited.

The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the village which tends to cause or create a disturbance is prohibited.

(Code 1982, § 4.156(k))

Sec. 10.102. Partition or line fences.

(a) *Maintenance.* The respective occupants of adjoining lands, used and occupied for farming or grazing purposes, and the respective owners of adjoining lands when the lands of one of such owners is used and occupied for farming or grazing purposes, shall keep and maintain partition fences between their own and next adjoining premises in equal shares so long as either party continues to so occupy the premises; and such fences shall be kept in good repair throughout the year unless the occupants of the land on both sides otherwise mutually agree.

(b) *Portion of fence required to be maintained by respective owners or occupants.* Unless otherwise agreed, as evidenced by agreement in writing made by the owners, signed, sealed and witnessed by two witnesses, or by the fence viewers in writing under their hands, which agreement shall be recorded in the village clerk/treasurer's office, the respective occupants of adjoining lands, used and occupied for farming or grazing purposes, and the respective owners of adjoining lands when the lands of one of such owners is used and occupied for farming and grazing purposes, shall keep and maintain as his portion of the partition or line fence whenever practicable that half lying and being to his right as he faces the partition or line fence when standing on his own property or premises unless otherwise determined by the fence viewers.

(c) *Legal fences.* Legal fences as set out in Wis. Stats. § 90.02, and none other, are deemed and declared to be the legal and sufficient fences within the meaning of this section.

(d) *Penalty.* Any person violating any of the provisions of this section shall, in addition to the penalties provided for in Wis. Stats. ch. 90, be punished by a forfeiture of not to exceed \$100.00, together with costs of prosecution, and in default of the payment of such forfeiture and costs, shall be committed to the county jail for a period not to exceed 30 days. Each day that such violation shall continue to exist shall constitute a new and separate offense under this section.

(Code 1982, § 13.02)

Sec. 10.103. Abandonment of domestic animals.

No person shall transport any domestic animal into the village for the purpose of abandoning the animal, and no person shall abandon any domestic animal within the corporate limits of the village.

(Code 1982, § 6.11)

Sec. 10.104. Animal and pet establishments; offensive odors and noises.

(a) *Offensive odors and noises regulated.* No owner or operator of any establishment for the care, treatment or boarding of any animal in the village shall allow such establishment to be conducted so as to permit any offensive odor or unusual odor to escape from the premises. Nor shall any such owner or operator own, harbor or keep any animal on the premises which habitually barks, howls, yelps or emits other noises to the annoyance of any person. Any such activities prohibited by this section are declared to be a public nuisance.

(b) *Penalty.* Any person violating any of the provisions of this section shall be subject to section 1.112.

(Code 1982, § 6.15)

Cross References--Businesses, ch. 18.

ARTICLE II. DOGS AND CATS*

Sec. 10.105. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

At large means to be off the premises of the owner and not under the control of some person, either by leash or otherwise, but a dog or cat within an automobile of its owner or in an

* **State Law References**--Dogs generally, Wis. Stats. § 174.001 et seq.
automobile of any other person with the consent of the dog's or cat's owner, shall be deemed to be upon the owner's premises.

Owner means any person owning, harboring or keeping a dog or cat. The occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten days is presumed to be harboring or keeping the dog or cat within the meaning of this article.

(Ord. of 9-16-1985, § 1(1))

Cross References--Definitions generally, § 1.101.

Sec. 10.106. Penalty.

Any person violating any of the provisions of this article shall upon conviction, in addition to the penalties provided for in Wis. Stats. ch. 174, be punished by a forfeiture of not less than \$20.00 and not more than \$100.00, together with costs of prosecution and, in default of payment, be punished by commitment in the county jail for a period not to exceed 30 days.

(Ord. of 11-19-1990, § 3)

Sec. 10.107. Duty of owner in cases of dog bite.

Every owner or person harboring or keeping a dog, who knows that such dog has bitten any person, shall immediately report such fact to the police department and the health officer and shall keep such dog confined for not less than 14 days or for such period of time as the health officer shall direct. The owner or keeper of any such dog shall surrender the dog to the health officer or to a village police officer upon demand for examination.

(Ord. of 9-16-1985, § 1(6))

Sec. 10.108. Number of dogs and cats limited.

No more than two dogs and/or three cats shall be kept in or upon one residential unit or by one or more persons constituting one residential unit unless the premises is licensed as a kennel.

(Ord. of 9-16-1985, § 1(7))

Sec. 10.109. License required.

No person shall own, harbor or keep any dog more than five months of age without complying with Wis. Stats. §§ 174.05--174.09, relating to the licensing, listing and tagging of dogs.

(Ord. of 9-16-1985, § 1(2))

Sec. 10.110. Restrictions on keeping of dogs and cats.

No person within the village shall own, harbor or keep any:

- (1) Dog that habitually pursues any vehicle upon any public street, alley or highway in the village.
- (2) Dog or cat that assaults or attacks any person.
- (3) Dog or cat that is at large within the limits of the village.
- (4) Dog that habitually barks or howls to the annoyance of any person.
- (5) Dog or cat that kills, wounds or worries any domestic animal.
- (6) Dog or cat that is known by any such person to be infected with rabies or to have been bitten by any animal known to have been infected with rabies.

(Ord. of 9-16-1985, § 1(3))

Sec. 10.111. Animals on property of others.

No person who has the care, custody or control of any animal shall allow or permit the animal to defecate or urinate upon property not owned by such person or without such other property owner's consent or upon any public property.

(Ord. of 9-16-1985, § 1(8))

Sec. 10.112. Animal wastes on owner's property.

The accumulation of dog feces or wastes upon private property in the village is declared to be a public nuisance. The owner or occupant of property upon which there exists any accumulation of dog feces or wastes shall remove all such wastes from his premises and dispose of the wastes in a safe and sanitary manner within 24 hours of written notification from a police officer of the village to remove the wastes. Failure to do so shall be a violation of this section and will subject the owner or occupant of the premises to the penalties set forth in section 10.106.

(Ord. of 11-19-1990, § 2)

Sec. 10.113. Required removal of animal excreta.

(a) The owner or person having immediate care, custody or control of any animal shall promptly remove and dispose of, in a sanitary manner, any excreta left or deposited by the animal upon any public or private property.

(b) It is unlawful for any person to permit an animal to be on public property or private property not owned or possessed by such person unless such person has, in his immediate possession, an appropriate means of removing animal excreta.

(Ord. of 9-17-1994, § 2)

Sec. 10.114. Impounding of dogs.

It shall be the duty of the police officers of the village to impound every dog or cat found or known to be running at large within the village. The police officers of the village shall have the right to pursue a dog or cat upon the premises of the owner or elsewhere. Any person shall have the right to capture and deliver to the police officers of the village any dog or cat found running at large or trespassing upon any grounds, public or private, within the village. Impounded dogs and cats shall be dealt with pursuant to the provisions of section 10.115.

(Ord. of 11-19-1990, § 1)

Sec. 10.115. Claiming impounded dog or cat.

Impounded dogs or cats shall be forthwith delivered to the county humane society by the police officer. Any person whose dog or cat has been impounded may obtain the dog's or cat's release from the humane society by making payment to the humane society for all of the latter's costs, charges and/or expenses that were incurred as a result of the dog's or cat's impoundment. Every person taking a dog or cat from the humane society shall sign a receipt for the animal.

(Ord. of 9-16-1985, § 1(5))

ARTICLE III. DANGEROUS DOGS.

Sec. 10.115.1. Dangerous Dogs.

(Ord. of 2-24-2006)

Sec. 10.115.2. Definitions.

(a) *Dangerous Dog.* Any dog which:

1. Without provocation, chases, confronts, or approaches a person in a menacing fashion or apparent attitude of attack, on public or private property and it is clear that the dog is not merely being protective in a particular set of circumstances.
2. Without provocation, inflicts bodily harm on a person, domestic pet, or animal on public or private property.
3. When unprovoked and while off its owner's property, approaches a domestic animal in a menacing fashion.

(b) *Domestic Animal.* Livestock, domesticated dogs and domesticated cats.

(c) *Menacing Fashion.* Demonstrating an intent or desire to cause injury by one or more of the following actions.

1. An attempt to/or bite a person or another animal in such a fashion to show plainly to a reasonable person an unfriendly intent and put them in fear of attack.
2. Growling or barking in an unfriendly manner while approaching or chasing a person or another animal.
3. Growling or barking in an unfriendly manner while making physical contact with a person or another animal.

- (d) *Officer.* Any peace officer or a Marathon County Humane Animal Control Officer.
- (e) *Owner.* Any person, firm, corporation, or other organization owning, keeping, possessing, harboring, controlling, or having the care or custody, whether temporary or permanently, of a dog or dogs.
- (f) *Provoked.* Any attack by an animal or physical injury caused by an animal shall be considered provoked if at the time the attack occurs or the injury is inflicted:
 - 1. The person who was attacked or injured was teasing, tormenting, abusing, or assaulting the animal; or
 - 2. The animal was protecting a person, itself, its young or another domestic animal from an attack by a human being or another animal; or
 - 3. The person who was attacked or injured was committing a crime on the property of the animal's owner.

(Ord. of 2-24-2006)

Sec. 10.115.3. Dangerous Dogs Prohibited.

- (a) *Possession a dangerous dog prohibited.* No person shall own, keep, possess, return to, or harbor a dangerous dog within the Village.

(Ord. of 2-24-2006)

Sec. 10.115.4. Procedure for Declaring a Dog “Dangerous”.

- (a) A humane officer or police officer may determine a dog to be “dangerous” whenever, upon investigation, that officer finds that the dog meets the definition of dangerous as delineated in subsection (1).
- (b) The police officer or humane officer, upon making the determination that a dog is dangerous, shall issue a written order declaring the dog to be dangerous and demanding that the owner of the dangerous dog remove it from the Village within five days.
- (c) If the owner objects to the declaration of dangerousness, they may file a written objection contesting the declaration with the Municipal Court Clerk within five days of receiving the written declaration.

- (d) Upon receipt of the owner's written objection within the prescribed five days, the matter shall be placed on the soonest Municipal Court docket for review.
- (e) The Municipal Court Judge shall allow the animal's owner an opportunity to present evidence as to why the animal should not be declared a prohibited dangerous dog.
- (f) Pending the outcome of the hearing, the animal may be confined subject to Sec. 173.21, Wis. Stats., or held at a location outside the Village limits at the owner's expense.
- (g) After the hearing, once the Municipal Court Judge has made a decision, the owner shall be immediately notified of the decision in writing by certified mail. If a decision is made that the animal is a prohibited dangerous dog, the owner shall comply with the order to remove the dog from the Village within five days after the written decision, if not already removed.
- (h) If the owner further contests the decision, he or she may, within five days of receiving the written decision, seek review of the decision by the Circuit Court.
- (i) If the declared dangerous dog is not removed from the Village within 10 days of it being declared dangerous by owner's omission, Municipal Court hearing, or appeal, it may be seized and ordered destroyed pursuant to Sec. 174.02 (3), Wis. Stats., and in the manner prescribed in subsection (4) of this ordinance.

(Ord. of 2-24-2006)

Sec. 10.115.5. Manner and Procedure for Destruction of Dangerous Dogs.

Whenever an officer or veterinarian is required to destroy a dangerous dog, the animal shall be destroyed in a humane manner which avoids damage to the animal's head.

(Ord. of 2-24-2006)

Sec. 10.115.6. Exemption for Police Dogs.

The provisions of this ordinance regarding dangerous dogs shall not apply to dogs owned by law enforcement agencies and used for law enforcement purposes.

(Ord. of 2-24-2006)

Sec. 10.115.7. Penalties.

- (a) Any person violating this ordinance shall, upon conviction, forfeit not less than thirty dollars (\$30), or not more than five hundred dollars (\$500).
- (b) Any person who owns, keeps, possesses, harbors, or returns any dangerous dog to the Village, after it has been declared to be dangerous by owner's omission, judicial hearing, or appeal, shall be subject to a forfeiture of not less than \$500 or more than \$1,000.

(Ord. of 2-24-2006)

ARTICLE IV. HUNTING

Sec. 10.116. Definitions.

(a) *Hunt or hunting* includes shooting, shooting at, pursuing, taking, capturing or killing or attempting to capture or kill any wild animal.

(b) *Zones* are defined as:

- (1) *Archery zones* includes bows, and cross bows (as permitted by the Wisconsin Department of Natural Resources).

Archery zones shall also be open to small game hunting, and waterfowl hunting, restricted to: rimfire rifles and handguns; air rifles; and shotguns firing shot size and type as permitted by the Wisconsin Department of Natural Resources.

- (2) *Non-restrictive* includes: shotguns of all types; bows and cross bows (as permitted by the Wisconsin Department of Natural Resources); non-cartridge black powder (or substitute) firing rifles, shotguns or pistols; cartridge firing rifles, shotguns or pistols.

(Ord. of 7-1-2002, § 1, Ord. of 3-18-2005)

Sec. 10.117. Permitted activity zones.

(a) *Map*. All "zones" shall be as depicted on the official "Village of Weston Designated Hunting Zones" created June 2001 or its successor. Hunting methods must conform to the restrictions upon that map.

- (1) Any parcel which is zoned AG (Agriculture), RR (Rural Residential), WPD (Wetland Protection District) or mapped as Shoreland-Wetland and has any of the following overlay districts: Institutional, Public Service may not be

considered in the “Non-Restrictive” zone but may, upon review of the Public Safety Committee placed in an “Archery” zone.

(b) *Conformity.* All hunting shall be in conformity with Wisconsin State Statute Chapter 29 "Wild Animals and Plants" and regulations as established by the Wisconsin Natural Resources Code NR 10, and United States Fish and Wildlife Agency.

All hunting shall be in conformity with the uses permitted according to Chapter 94 (Zoning) and Chapter 54 (Offenses and Miscellaneous Provisions) of the Municipal Code of the Village of Weston.

(c) *Special permits.* In *Archery Zones*, special permits for unrestricted small game, waterfowl, and large game hunting may be granted upon application to the village board through the Village of Weston Safety Committee. Such permits shall be valid from July 1 to June 30 of each year and shall cover the Wisconsin small game season, waterfowl season, and big game hunting season including "special" seasons. Small game and waterfowl season hunting restrictions shall also apply to these permits.

Archery zoned *Special Permits* shall be restricted to; rimfire rifles and handguns; air rifles; and shotguns firing shot size and type as permitted by the Wisconsin Department of Natural Resources.

- (1) Applications for *Special Hunting Permit(s)* shall be submitted to the Village of Weston Safety Committee for their review and recommendation at the next available meeting.

The application will be reviewed by the safety committee to assess the location of the area to be hunted, the terrain, vegetation density, it's proximity to; residences, businesses, schools, commercial structures, public parks, major roadways, and the probability of stray shots striking persons, or structures.

The village board of the Village of Weston shall have the final authority to grant or deny such permits.

An applicant may appeal the denial of a special hunting permit to the Village of Weston, village board.

- (2) Applicants must own, lease, or have written permission from the owner of a parcel of land located in one of the "archery zones" as delineated in the official "Village of Weston Designated Hunting Zones" created June 2001 or it's successor.
- (3) That parcel of land must be zoned AG (Agriculture) greater than or equal to 20 (twenty)

acres, RR (Rural Residential) greater than or equal to 2.75 (two and three quarters) acres but less than 20 (twenty) acres, WPD (Wetland Protective District) no minimal size or mapped as Shoreland-Wetland greater than or equal to 5 (five) acres. Changes in zoning which remove the permitted parcel from any of the above listed zones shall render the permit null and void.

(Ord. of 7-1-2002, § 1, Ord. of 3-18-2005)

Sec. 10.118. Enforcement and penalties.

(a) *Enforcement.* Enforcement of the provisions of this section shall fall under the jurisdiction of the Everest Metropolitan Police Department, Marathon County Sheriff's Department.

(b) *Penalties.* Any person violating this section shall, upon conviction, forfeit not less than thirty dollars (\$30.00), or not more than five hundred dollars (\$500.00).

(Ord. of 7-1-2002, § 1, Ord. of 3-18-2005)